UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,463	09/13/2000	Christopher William Preist	30990066	7563

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EXAMINER
MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.		Applicant(s)
Offic Action Summary	09/661,463		PRIEST
	Examiner		Art Unit
	James S McClellan		3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _13 September 2000_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-10_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-10_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _13 September 2000_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

  If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☒ All b)☐ Some * c)☐ None of:

  1.☒ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____ .

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

  a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Specification

1.   The disclosure is objected to because of the following informalities: on page 16, line 18,

"801" should be replaced with --800-- has set forth in Figure 8.

        Appropriate correction is required.

Claim Objections

2.   Claims 6 and 8 are objected to because of the following informalities: "a said" in claim

6, line 10 should be replaced with --said-- and "a said" in claim 8, line 11 should be replaced

with --said--. Appropriate correction is required.

        Additionally, it appears that claims 7 and 9 should depend from claims 6 and 8

respectively, not claim 5.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

4.   Claims 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Claim 7 recites the limitation "said step of constructing a set of bids" in lines 1-2. There

is insufficient antecedent basis for this limitation in the claim. It appears that claim 7 should

depend from claim 6, not claim 5.

Claim 9 recites the limitation "said step of constructing a set of offers" in lines 1-2.

There is insufficient antecedent basis for this limitation in the claim. It appears that claim 9

should depend from claim 8, not claim 5.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No.

5,826,244 (Huberman).

Regarding **claim 1**, Huberman discloses an electronic trading entity comprising: a

processor (105); a memory means; a communications means (160; see column 7, lines 16-28);

monitoring means for monitoring a plurality of trading data displayed by a plurality of auction

entities (see column 17, lines 1-5; "a mobile process 210 (e.g. an intelligent agent) can be

instructed to roam network 100 in search of good deals"); quantity calculation means (processor

105) for calculating quantities of items for trading with said plurality of monitored auction

entities; price calculation means (processor 105) for calculating optimal prices of items to be

traded with said plurality of auction entities; wherein said price calculation means operates to

process said trading data to obtain trading prices for a quantity of items calculated by said

quantity calculation means, said prices calculated for a set of chosen auction entities selected

from said set of all said plurality of auction entities; and said price calculation means operating to

process said selected data to obtain trading price for a predetermined amount of items across all

said selected set of plurality of auction entities; **[claim 2]** search means for searching

electronically for individual ones of said auction entities (see column 17, lines 1-5; "a mobile

process 210 (e.g. an intelligent agent) can be instructed to roam network 100 in search of good

deals"); **[claim 3]** means for storing bid data describing a plurality of bids in at least one of said

plurality of auction entities (bid storing means is inherent); means for storing user bid data

describing a number of bids placed by said trading entity with at least one of said plurality of

auction entities (inherent in the broker process 230, which oversees the auction); and means for

determing an optimum number of bids and corresponding price amounts of said bids to place

with at least one of said plurality of auction entities (via an intelligent agent of column 17 during

a multiple auctions as set forth in column 18); **[claim 4]** said quantity calculation means

comprises: means for storing an offer data describing a plurality of offers made by said plurality

of auction entities (bid storing means is inherent); means for storing user offer data describing a

number of offers placed by said trading entity with at least one of said plurality of auction

entities (inherent in the broker process 230, which oversees the auction); and means for

determining an optimum number of offers and corresponding price amounts of said offers to

place with at least one of said plurality of auction entities (via an intelligent agent of column 17

during a multiple auctions as set forth in column 18).

Regarding **claim 5**, Huberman discloses a method of operating an electronic trading entity for trading a plurality of items, said method comprising the steps of: monitoring a plurality of auction entities (see column 17, lines 1-5; "a mobile process 210 (e.g. an intelligent agent) can be instructed to roam network 100 in search of good deals"); inputting a plurality of trading data from said plurality of auction entities (Huberman inherently includes inputting trading data in order to find a "good deal"); processing said trading data (via processor 105) of said plurality of auction entities to determine an optimum set of amount data describing quantities and prices of said tradable items by said trading entity (the intelligent agent cited in column 17, lines 1-5 optimizes bids by roaming the network in search of good deals); **[claim 6]** said step of processing trading data of said plurality of auction entities comprises: storing in memory a plurality of bid data displayed by said plurality of auction entities (it's inherent that trading data is stored for processing); determining a number of active bids of said trading entity already sent by said trading entity to at least one of said trading entities (see column 18, lines 27-50, wherein the system is able to track multiple bids); constructing a plurality of currently successful set of said bid data of said plurality of auction entities; determining a cost to outbid each said set of currently successful bids (via the intelligent agent); selecting said currently successful set of bids having an optimum cost to outbid; and constructing a set of bids of said trading entity which minimally outbid said optimum cost to outbid said currently successful bid set; **[claim 7]** said step of constructing a set of bids of said trading device which are higher than said optimum cost of currently successful bid set comprises: for each bid of said optimum set, said bid made either by said trading entity or a third party, selecting the highest third party bid appearing in an identical auction entity to said bid, which also appears in said optimum bid set; and generating a

trading device bid of an amount equal to said highest third party bid plus a minimum bid

increment (incremental bidding is an inherent property of Huberman's system that allows the

generation of a series of bids); **[claim 8]** said step of processing trading data of said plurality of

auction entities comprises: storing in memory a plurality of offer data of said plurality of auction

entities (it's inherent that bid data is stored); determining a number of active offers of said

trading entity already sent by said trading entity to at least one of said plurality of auction

entities; constructing a plurality of currently successful sets of said offer data of said plurality of

auction entities; determining a value to undercut each said set of currently successful offers (via

intelligent agent); selecting said currently successful set of offers having an optimum value to

undercut; and constructing a set of offers of said trading device which minimally undercut said

optimum value to undercut currently successful offer set (see paragraph bridging columns 10-11

that allows the generation of a series of bids that will minimally undercut the current winning

bid); **[claim 9]** said step of constructing a set of offers of said trading device which are lower

than said optimum value to undercut currently successful offer set comprises: for each offer of

said optimum offer set, said offer made either by said trading entity or a third party, selecting a

lowest third party offer appearing in an identical auction entity to said offer, which also appears

in said optimum offer set; and generating a trading device offer of an amount equal to said

highest third party offer minus a minimum bid increment (incremental bidding is an inherent

property of Huberman's system that allows the generation of a series of bids).

Regarding **claim 10**, Huberman discloses a method of exchanging data between a first

electronic trading entity (230) and a plurality of electronic auction entities (multiple auctions, see

column 18), said method comprising the steps of: said first trading entity monitoring data

displayed by said plurality of auction entities: said first trading entity (230) extracting from said

monitored data, data describing prices of individual items to be traded; said first trading entity

determining from said price data an optimum set of trading data for sending to said plurality of

auction entities (via intelligent agent in column 17, lines 1-5); and said first trading entity (230)

communicating said trading data to said plurality of auction entities (see column 18).

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to

Applicant's disclosure.

        Alaia et al. '283 and Alaia et al. '018 are cited of interest for disclosing methods for

controlling bidding in an electronic auction.

        Miller et al. is cited of interest for disclosing a system that allocates computer resources

among bidding requesters.

        Woolston is cited of interest for disclosing a system for conducting online auctions.

        Friedland et al. is cited of interest for disclosing a system for a distributed live auction.

        Mori et al. is cited of interest for disclosing a method of automatically bidding on an

electronic auction.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The

examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-1113.
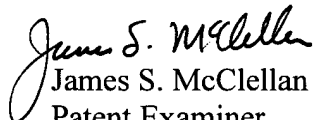
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 305-7687 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,

Arlington, VA, 7th floor receptionist.

James S. McClellan
James S. McClellan
Patent Examiner
A.U. 3627

jsm
July 28, 2003